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III. GOVERNMENT STRUCTURE AFTER PROMULGATION OF THE COMMUNIST CONSTITUTION

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142 After the promulgation of the new Constitution, which was preceded by the abolition of the system of the Greater Area, the provincial government was put on a new basis. On one hand, it can be said that each province, according to the new constitution, regains the traditional status of an administrative district which stands under the supervision of the Central People's Government; on the other hand, there is a point of departure from the traditional status; that is, the members of the provincial government are elective and a provincial People's congress has a share of the deliberative functions. The avoidance of the term legislative in the section of the Constitution on provincial government suggests that the People's congress is limited to the function of deliberation and is not entitled to make the counterpart, the executive organ, responsible by changing it. Each province, according to the Communist Constitution, Article 53, is a kind of administrative district modified to such an extent that the power of passing a budget, enforcing laws, and safeguarding the rights of the citizens constitutes its only share in the powers of the executive organ. Although the provincial government is elective and a provincial People's congress sits next to it, it has no more status than an administrative district, because it is neither like the state of New York under the American Constitution nor like a British borough which operates under a special grant of powers. Furthermore, it is stipulated that the provincial government is to be subordinate to the Central Government, and that the

635 provincial People's congress can pass resolutions
642 only within the frame of the law which governs it. This means that the provincial People's congress has neither power by itself nor by special grant.

Under the Chinese Communist Constitution the status of a province is that of one of the various administrative districts which comprise provinces, autonomous regions, and municipalities directly under the central authority. Even a county and a hsiang is an administrative district, although they are not considered as being directly under the authority of the Central Government.

The executive, deliberative, and judicial branches of the provincial government are constituted as follows:

The provincial executive units consists of one governor, a number of deputy-governors, and twenty-five to fifty-five members of the provincial People's council. The governor, the deputy-governors, and the members of the provincial council are elected by the provincial People's congress, while those who are commissioners of the departments of Civil Affairs, Public Security, Finance, Agriculture and Forestry, and the other twelve departments are appointed by the Central People's Government. The fact that the commissioners are appointed confirms the view that the provincial administration is not a kind of self-government, but stands under the centralized control of the Peking government.

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642 The provincial People's congress according to the Constitution, has the following powers:

1. To insure observance and execution of the laws, decrees, and resolutions of the People's congress of the higher level.

2. To adopt and promulgate resolutions within the limits of their functions and powers.

3. To plan economic construction, cultural construction, public works, pensions, and relief work.

4. To consider and approve budgets and financial statements.

5. To elect members of the People's council of the corresponding level.

6. To elect presidents of the provincial People's courts.

7. To elect deputies to the People's congresses of the next higher level.

8. To hear and examine the work reports of the People's Council and the People's courts of the corresponding level.

9. To revise or annul inappropriate decisions of the People's congresses of the next lower level and the inappropriate decisions and orders of the People's councils of the next lower level.

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10. To protect public property, maintain public order, and safeguard civil rights.

11. To insure the equal rights of minority nationals.

12. To recall the members of the provincial People's council and the president.

From this list it may appear that the powers of the provincial People's congress are clearly defined. However, since the stipulations of Point 9 provide that the decisions of a provincial People's congress can be annulled or revised, the National People's Congress or the Central People's Government is certain to have a share in the annulment or revision. This reconfirms the fact that the provincial People's congress has no power of its own independent of the central organizations.

The formation of the provincial People's congress is based on a method of indirect rather than direct election. It is governed by two principales -- the population of the province and the number of the counties which lies within the territory of each province.

These two principles are stipulated in the Electoral Law for congresses of all levels. The first principle states that a province with a population not exceeding 20,000,000 shall elect from 100 to 400 deputies; a province with a population exceeding 20,000,000 shall elect from 400 to 500 deputies. In a province where the population and the number of counties are exceptionally small, the number of deputies may be less than 100 but

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not less than 50; in a province where the population and the number of counties are exceptionally large the number of deputies may exceed 500 but shall not exceed 600.

Because the members of the provincial People's congress are elected, not directly by the people of the province, but indirectly by the counties, the provincial municipalities, towns, and others, the number of the membership of the provincial congress is governed by a second principle, which may be stated as follows: a county with a population not exceeding 200,000 shall elect one to three deputies; a county with a population not exceeding 200,000--600,000 shall elect two to four deputies; and a county with a population not exceeding 600,000 shall elect three to five deputies. From the municipalities and towns and the important industrial mining districts within the provinces, one deputy shall be elected by every 20,000 inhabitants. Based on the above-mentioned principles, the number of the members of the provincial congress of these five provinces can be shown in the following tabulation.

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	SHANTUNG	KIANGSU	ANHWEI	CHEKIANG	FUKIEN
Population	48,876,192	41,252,192	30,343,637	22,865,747	19,142,721
Number of Delegates	557	449	414	451	283
Municipalities	4	6	6	7	4
Administrative Districts	11	8	7	6	8
Counties	126	69	68	77	67
Mining Districts	1	-	-	-	-

Source: Enlightenment Daily, Peking, November 1, 1954, p. 1; Jen-min Shou-ts'e 1955 [People's Handbook 1955], Tientsin, Ta-kung pao, 1955, pp. 234-35.

As an example of these five provincial assemblies, the membership of the Fukien Provincial People's Congress has been analyzed by the New China News

635 642 Agency. The information which follows is drawn from that source.

Present at the meeting were deputies of the various provinces, the various strata and classes and the various professions, as well as the deputies of the returned overseas Chinese and minority nationalities, a total of 283. Among the deputies elected, 46.3 per cent were workers, revolutionary employees, and revolutionary servicemen; 24.7 per cent were peasants and fishermen; 14.1 per cent were professional men; and 14.9 per cent were industrialists, merchants, and members of the community who called themselves non-Communist. There were forty-five women acting as deputies and five deputies representing the national minorities. There were also well-known industrial and agricultural "labor models" among the deputies. Also attending the meeting, among the deputies, were five Chinese returned from overseas. [2]

From the study of the percentages of representatives from the various groups in the Fukien Provincial Congress, it can be seen that the Communist Party has the absolute majority. Not only the so-called revolutionary employees and servicemen are members of the Communist Party, but also the representatives of the peasants' and workers' groups. Only a few of the representatives belong to the self-termed democratic groups, and their number is so small that they cannot have any influence in provincial politics.

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2. Jen-min Jih-pao [People's Daily], Peking, August 15, 1954.

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642 The work done by the Fukien Provincial Congr can be seen in its schedule dated from August 2 to August 11, 1954, which records (1) the examination and approval of the report of the work of the Fukien People's Government during the past five years; (2) resolution on the future tasks of the province; (3) approval of the statement of the financial accounts for the fiscal year 1953 and the budget for the fiscal year 1954; discussion of the Draft Constitution of the People's Republic of China, and the passing of a resolution for its suppprt; and (5) finally, national election of the People's deputies from Fukien Province to the First National People's Congress.[3]

From reading the reports about the Provincial Congress in the Communist newspapers, one can learn only that reports on the work of the provincial government were approved and that the budget was passed It is hard to find a reference to any debate or any counter-proposal, and it is still harder to find any evidence of opposition or mention of critical remarks. The provincial congress like the National Congress is an organization for expressing popular support of Communist policies, rather than for debate on government policies.

It is stipulated in Article 59 of the Communist Constitution that, "The People's congress, at county level and above elect and have power to recall the presidents of People's courts at corresponding level which is nothing else but another version of the articles of the Constitution of the USSR, numbers 105 through 109. Furthermore, an assessor system which is provided for in Article 75 of the Communist Constitution, has been adopted for the first time in Chinese history.

3. Ibid.

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642 Another institution which follows the Soviet pattern is the procuratorate. The provincial procurator is not elected, but appointed for four years by the procurator-general in Peking. Each county has a similar official, appointed by the provincial procurator with approval of the procurator-general. The fact that the president of a law court, according to the Communist Constitution, is to be elected, shows that he is less a jurist appointed for life than a person who looks after the interests of the Communist Party.

Workers or peasants who are Communists or fellow-travelers may sit in court and participate in the proceedings. According to the Chinese Communist view, the judiciary is a component part of politics and must promote the interests of the working class. Many favorable reports have appeared in Mainland newspapers but since the judiciary, and the provincial or county congress were established only a year ago, a judgment upon their merits must be postponed.

A list of the governors, deputy-governors, and the chief procurator who have been recently elected in these five provinces, is as follows:

1. Shantung

a) Governor Chao Chien-min
b) Deputy-Governors
Chao Che-fu
Wang Cho-ju
Liu Min-sheng
Li Ch'eng-chih
c) Provincial High People's Court
President-Yang Hsüan-wu

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2. Kiangsu

a) Governor-Hui Yü-yü

b) Deputy-Governors
Liu Shun-yüan
Kuan Wen-wei
Leng Yü
Chi Fang

c) Provincial High People's Court
President-Liu Shao-t'ang

3. Anhwei

a) Governor-Huang Yai

b) Deputy-Governors
Li Shih-nung
Chang K'ai-fan
Kuei Lin-hsi

c) Provincial High People's Court
President-Ch'en Yüan-liang

4. Fukien

a) Governor-Yeh Fei

b) Deputy-Governors
Ch'en Shao-k'uan
Chiang I-chen
Ting Ch'ao-wu
Chia Chiu-min

c) Provincial High People's Court
President-Lan Yung-yü

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5. Chekiang

a) Governor-Sha Wen-han

b) Deputy-governors
Huo Shih-lien
Li Feng-nien
Pao Ta-san
Yang Ssu-i

c) Provincial High People's Court
President - Wu Chung-lien

The most recent work of the provincial governments of East China is described in a summary of the report made at the time of the convention of the provincial congresses.

When the Kiangsu Provincial People's Congress was convened from August 5-11, 1954, the following record appeared: " . . all the delegates of the congress expressed their approval of the report on the work done during the past year and one-half and also on the immediate tasks of Kiangsu Province In the session of the delegates a resolution was passed which ratified the government report. It also passed resolutions that the people of the provinc should be united for raising the industrial production level, for the work of socialist transformation, for prevention of natural calamities in the rural areas, for insuring the fulfillment of the agricultural production plan, and for consolidating and developing the co-operatives and the mutual-aid organizations. They also sent letters of appreciation

635 642 to the heroes who worked for prevention of floods and to the Liberation Army which were stationed in Kiangsu. They then discussed the Draft Constitution and elected sixty-seven members as representatives to the National People's Congress."[4]

When the Chekiang Provincial Congress was convened, it discussed the draft Constitution and passed a resolution for its support. The next thing on the agenda was to examine the report on government work during the past year and a half and to approve the plan for future tasks of the government. It also passed the financial statement of 1953 and the gudget for 1954. The delegates also gave consideration to a report on military construction work in Chekiang made by Liu Wen-hsüeh, director of the Department of Political Affairs of the military district of the Chekiang Liberation Army. Liu said that in the past year and a half the People's Liberation Army in Chekiang had defended the coastline very well and "had given blows" to Chiang K'ai-shek's army. They liberated the Great and Small Deer islets and also the Sheep islets. A total of 2,276 men of Chiang K'ai-shek's army were killed. There were seventeen enemy planes brought down and fifteen damaged. A great number of fishing boats escorted to sea returned with a catch totaling 5,300,000 piculs (292,030 tons) of fish. Many delegates expressed the wish of the mass of the people that Formosa and the offshore island be liberated.[5]

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4. People's Daily, August 13, 1954.

5. People's Daily, August 21, 1954.